

# OUTSIDE EMPLOYMENT

In accordance with ER-MRS 24.045, agencies are required to establish guidelines for outside employment. It is highly recommended that outside employment policies contain the following elements:

- Background and overview of outside employment (including citing ER-MRS 24, Wis. Adm. Code)
- Examples of what are exempt and non-exempt activities (whenever possible, include specific examples of conflicts of interest for your agency)
- Approval process (request forms are not mandatory but are highly recommended)

Below is a sample Outside Employment Policy. This policy may be modified and used to fit your agency's needs.

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## SAMPLE OUTSIDE EMPLOYMENT POLICY

### BACKGROUND AND POLICY

The State Ethics Code (Ch. ER-MRS 24, Wis. Adm. Code) states that “no employee shall engage in any employment or maintain any investment if the employment or investment conflicts with the specific provisions of this chapter.” The ethical standards of ER-MRS 24 are intended to “avoid conflicts of interest between their personal interests and their public responsibilities . . .” State agencies are required by ER-MRS 24 to “establish guidelines regarding outside employment of employees which shall include identifying those activities which are likely to cause a conflict of interest and requiring employees to obtain prior approval before accepting outside employment.”

The intent of this policy is to inform employees of the requirements of the State Ethics Code with respect to outside employment, including self-employment, or other activities that might create potential conflict of interest situations for certain employees. The Department has issued this policy in order to protect both employees and the agency from potential problems.

It is the responsibility of the employee to ensure that outside employment does not conflict or interfere with the full and faithful discharge of his/her duties for the State. Should employees have questions about the information contained in this policy, they should consult with their supervisor, Division Administrator, or the Bureau of Human Resources and refer to the appropriate section of the State Ethics Code to determine if their actions conform to the Code.

### BASIC PRINCIPLES

Employees must **not** use their state positions for private gain. They should not solicit or accept anything of value when acting as an official representative of the State in the presentation of papers, talks, demonstrations, or for any matter related to their jobs as employees of the State. Anything of value means money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment.

Employees must not place themselves in a position of conflict of interest with the Department.

Outside activities or employment must not impair employees' independence of judgment or ability to perform their duties as employees of the State.

Outside employment is defined as any means of employment, including self-employment, within or outside state services in which compensation or any type is provided in exchange for labor or services.

## GUIDELINES FOR APPROVAL

**Exempt Activities:** Employees do not need to notify the Department of activities performed for which they receive no compensation (e.g., serving on a church board or acting as an officer in a professional organization). In addition, payment of expenses while performing activities on a volunteer basis (e.g., payment of travel expenses while performing charitable work) is exempt from application of this policy.

**Nonexempt Activities:** Employees should notify their supervisor or Division Administrator and seek advice from him/her or the Bureau of Human Resources before assuming any executive or policy making position, whether or not for compensation, in any organization, board, council, committee or association that employs a lobbyist, lobbies, or has interests that may affect the interests of the Department. Employees should realize that such positions or the activities of these organizations could place an employee in a situation perceived to be in conflict with or support of the Department.

The following questions will be considered in determining whether an activity is outside employment for which a Department employee may or may not accept or receive personal gain. Answers of "Yes" to one or more of these questions indicate that the activity will be closely scrutinized as an activity for which the employee may **not** receive personal remuneration:

- Is the activity something that the employee would be assigned or reasonably expected to do as part of his/her job at the Department of XXX?
- Is the employee being asked to perform or do something as an official representative of the State or Department? Will the employee's state job title be used in the activity's agenda, promotional materials, etc.?
- Is the activity so closely related to the employee's Department job duties that the employee's participation is because of that factor and not because the employee has special expertise in the subject area regardless of his or her job duties with the Department?
- Are State or Department funds or materials being used for the activity? Is preparation being done on Department time?

A conflict of interest may exist when a situation involves:

- providing services to individuals or organizations which are similar to those program functions performed by the Department.
- working for an individual or organization that provides services for the Department or is regulated by the Department.

## REQUEST FOR APPROVAL

An employee considering outside employment must complete an "Outside Employment Request" form and submit it to their immediate supervisor for approval or denial **prior** to accepting outside employment.

The supervisor will review the request to determine if there is a conflict of interest or not. If the supervisor approves the request, he/she shall forward it to the Division Administrator for review and recommendation.

If the Division Administrator approves the request, he/she will forward a copy of the approval to the employee and to the Bureau of Human Resources. The Bureau of Human Resources will place the copy in the employee's personnel file.

If the request is denied at any level, the employee will receive a copy of the request with the rationale for the denial. In addition, a copy will be submitted to the Bureau of Human Resources and will be placed in the employee's personnel file.

An employee who disagrees with the decision may request a review by the Office of the Secretary. A decision made by the Office of the Secretary may be reviewed by the Division of Merit Recruitment (DMRS) Administrator at the Office of State Employment Relations. The DMRS Administrator will issue an advisory opinion and may consult the Ethics Board as part of this process.

If an employee proceeds with any outside employment contrary to management's decision that such employment constitutes a conflict of interest, the employee's supervisor is responsible for taking appropriate action. Depending on the situation, the Department may initiate disciplinary action against the employee.

# OUTSIDE EMPLOYMENT REQUEST FORM

*Instructions:*

1. Do not accept outside employment without the prior approval of your supervisor and Division Administrator. Acceptance of outside employment without advance approval or after being informed that such employment, in the Department's judgment, constitutes a conflict of interest shall be cause for disciplinary action up to and including termination.
2. Forward a signed copy of this request to your supervisor in advance of accepting outside employment or fees or honoraria. A copy of this request will be returned to you with a decision within ten calendar days following receipt of this request by your supervisor.
3. Clarification of conflict of interest and information regarding outside employment or acceptance of fees or honoraria may be found in the Employee Handbook.

Employee Last Name	First Name	MI	Division/Unit
Employee Classification			

**NOTICE OF PROPOSED OUTSIDE EMPLOYMENT OR ACCEPTANCE OF FEES/HONORARIA:**

Anticipated Employment Type	Type of Request	Anticipated Work Schedule
<input type="checkbox"/> Outside Employer <input type="checkbox"/> Fees	<input type="checkbox"/> New	
<input type="checkbox"/> Own Business (Incl. Freelance) <input type="checkbox"/> Honoraria	<input type="checkbox"/> Renewal	

Prospective Employer or Own Business:			
Name	Street Address	City	State
Start Date of Employment: _____		End Date of Employment: _____	

Description of Significant Duties Involved in Proposed Employment/Fees/Honoraria
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Do you hold a financial interest in the proposed outside employer/business?
<input type="checkbox"/> Yes <input type="checkbox"/> No

To the best of my knowledge, the above employment will in no way conflict or interfere with the full and faithful discharge of my duties for the State.	Employee Signature
	Date

**APPROVAL PROCEDURES**

Supervisor: <input type="checkbox"/> Proposed Employment <b>Does Not</b> Constitute a Conflict of Interest <input type="checkbox"/> Proposed Employment <b>Does</b> Constitute a conflict of Interest	Supervisor Signature	Date
Division Administrator: <input type="checkbox"/> Proposed Employment <b>Does Not</b> Constitute a Conflict of Interest <input type="checkbox"/> Proposed Employment <b>Does</b> Constitute a conflict of Interest	Division Administrator Signature	Date

Distribution After Decision: original submitted to the Bureau of Human Resources and is placed in the employee's P-file; Division Administrator will distribute copies to the employee and supervisor.